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GENERAL AND COMPLETE DISARMAMENT: MEASURES TO CURB THE ILLICIT TRANSFER AND USE OF CONVENTIONAL ARMS

Report of the Secretary-General

CONTENTS

		Paragraphs	Page
I.	INTRODUCTION	1 - 5	2
II.	INFORMATION RECEIVED FROM GOVERNMENTS		3
	Belarus		3
	Chile		4
	Finland		4
	San Marino		5
	Ukraine		6
	United Kingdom of Great Britain and Northern Ireland		7

I. INTRODUCTION

1. On 15 December 1994, the General Assembly adopted resolution 49/75 M, entitled "Measures to curb the illicit transfer and use of conventional arms", the relevant paragraphs of which read as follows:

"The General Assembly,

"...

"1. Invites the Disarmament Commission to:

"(a) Expedite its consideration of the agenda item on international arms transfers, with special emphasis on the adverse consequences of the illicit transfer of arms and ammunition;

"(b) Study measures to curb the illicit transfer and use of conventional arms;

"2. Invites Member States to provide the Secretary-General with relevant information on national control measures on arms transfers with a view to preventing illicit arms transfers and, in this context, to take immediate, appropriate and effective measures to seek to ensure that illicit transfers of arms are discontinued;

"3. Requests the Secretary-General to:

"(a) Seek the views of Member States on effective ways and means of collecting weapons illicitly transferred in interested countries, as well as on concrete proposals concerning measures at national, regional and international levels to curb the illicit transfer and use of conventional arms;

"(b) Study, within the existing resources, upon request from the concerned Member States, the possibilities of the collection of weapons illicitly transferred in the light of the experience gained by the United Nations and the views expressed by Member States and to submit a report on the result of his study to the General Assembly at its fiftieth session;

"4. Also requests the Secretary-General to report to the General Assembly at its fiftieth session on the implementation of the present resolution."

2. The Secretary-General, in a note verbale, brought to the attention of Member States the relevant paragraphs of resolution 49/75 M. In pursuance of the request contained in paragraph 3 (a) of the resolution, the Secretary-General requested Member States to provide the relevant information on the matter by 31 May 1995. Information has been received thus far from Belarus, Chile, Finland, San Marino, Ukraine and the United Kingdom of Great Britain and Northern Ireland. Any additional information received from Member States will be issued as addenda to the present report.

3. Several Member States have already addressed the issue of national control measures on arms transfers with a view to preventing illicit arms transfers in their submissions under General Assembly resolution 46/36 L of 9 December 1991. That information is referred to in the reports of the Secretary-General on the United Nations Register of Conventional Arms (documents A/48/344 and A/49/352).

4. It should be noted that the issue of the illicit traffic of arms has been examined within the context of the 1995 United Nations Disarmament Commission. 1/ The issue of the collection of weapons illicitly transferred is the subject of a forthcoming report of the Secretary-General entitled "Assistance to States for curbing the illicit traffic in small arms and collecting them".

5. Pursuant to paragraph 3 (b) of the resolution, as of 10 September 1995 no request had been received from the concerned Member States to study the possibilities of the collection of weapons illicitly transferred in the light of the experience gained by the United Nations and the views expressed by Member States. Therefore, at this stage, no report on the subject is envisaged for the fiftieth session of the General Assembly.

II. INFORMATION RECEIVED FROM GOVERNMENTS

BELARUS

[Original: English]

[30 June 1995]

1. Arms export is regulated by the Republic of Belarus Council of Ministers Decree "On establishing effective control over specific items (activities, services) export", as well as by the "Provisional specific items (activities, services)" licensing regulation in the Republic of Belarus and is under compulsory licensing.

2. Arms export licences are issued by the Ministry of External Economic Relations in conformity with approved lists of specific items (activities, services) allowed for export and countries exporting such items (activities, services). Applications for licences are to be approved by the Ministry of Defence, the Ministry of Industry, the State Security Committee, the Ministry of Foreign Affairs, and the Academy of Sciences. Arms export is also controlled by the Security Council of the Republic of Belarus.

CHILE

[Original: Spanish]

[31 May 1995]

1. With regard to control measures for curbing illicit arms transfers, in Chile Law 17.798 of 1972 centralizes arms control in a single national organization, the Office of the Director-General for National Mobilization. It must be borne in mind that the relevant legislation is exceedingly strict with regard to possession of arms by individuals, extending this right exclusively to the Armed Forces and the police and security forces.

2. In addition, a Special Commission has been set up; it comprises the Deputy Ministers of Defence, the Navy and the Air Force, the Deputy Minister for Foreign Affairs, the Assistant Chief of Staff of National Defence and the Director-General for National Mobilization, and is responsible for the regulations governing controls on arms exports. The Commission is kept informed of all export requests, analyses and checks all documents accompanying such requests and monitors compliance with the international obligations which Chile has assumed on arms exports.

3. With regard to effective means of collecting illicitly transferred weapons, Chilean legislation stipulates a nationwide application mechanism which is considered effective and consists in the following:

- In accordance with Law 17.798 on arms control, it is the duty of the Courts of Justice to remit for deposit to the Army's Battalion for War Arsenals all arms and matériel seized in connection with violations of the said law;

- Once judgement has been handed down, and if it is determined that the weapons shall remain confiscated, they become the property of the Technical Commission for War Materiel of the Armed Forces.

4. In this manner it is possible to maintain effective control over illicitly transferred arms and curb such transfers.

FINLAND

[Original: English]

[18 May 1995]

1. The export and transit of all kinds of military equipment (defined as defence material and covering the entire international reference list in this field) are subject to strict controls in Finland. These controls are based on a Parliamentary Act and various regulations subordinate thereto. The whole legal framework in this area was reviewed and updated in the first quarter of 1995. In addition, there is separate legislation containing provisions on export controls applicable to firearms and ammunition of a civil character.

2. One of the novel regulations for export controls of military items is the Decision by the Council of Ministers containing the Guidelines, that is, the rules of application - from the foreign and security policy point of view - of the Act on the Export and Transit of Defence Material. The Guidelines together with their annexes incorporate all relevant international commitments and obligations binding upon Finland, be they decided in the United Nations or its Security Council, the Organization for Security and Cooperation in Europe, the European Union (EU) or multilateral export control arrangements. The OSCE Principles governing Conventional Arms Transfers as well as the Arms Export Criteria of the European Union are an integral part of the Guidelines.

3. Thus, the export and transit of military items is, in all cases, subject to authorization through a licensing procedure. Careful scrutiny is exercised in the assessment of licence applications to ensure that the end-use and end-user are legal and politically acceptable, and that the export does not conflict with the relevant international commitments or obligations binding upon Finland.

4. The end-use/end-user information is verified through normal control measures such as end-user certificates, non-re-exportation assurances and/or import certificates. With all these control measures duly applied it should be sufficiently ascertained that arms transfers from Finland are not diverted to illicit end-users or purposes.

5. Finland also participates in the multilateral negotiations aimed at establishing an export control arrangement for conventional arms. As a member of the European Union, Finland follows its joint moratorium on the export of anti-personnel land-mines. We encourage initiatives on creating and strengthening universal and regional sets of principles and criteria, codes of conduct, etc., as a means of guiding international arms trade towards a more responsible track and raising the general awareness of the dark side of that trade.

SAN MARINO

[Original: English]

[9 May 1995]

1. The Republic of San Marino is fully aware of the necessity for more and more effective measures to control the illicit transfer of conventional arms, on both a national and international level.

2. The laws in the Republic of San Marino contemplate a control system on all arms entering its territory and forbid the sale, the purchase and the detention of illegal arms.

3. The Criminal Law of the Republic of San Marino punishes the production, circulation and use of arms, bombs or other exploding materials or inflammables (art. 251) and the lack of proper care in handling bombs, gases or weapons (art. 252).

4. The Republic of San Marino follows with great interest the initiatives carried out in this field by all international organizations.

5. The Republic of San Marino is following the activities of OSCE, it takes part in all the meetings concerning the above-mentioned issue and it will be interested in any further developments with regard to the question.

UKRAINE

[Original: Russian]

[1 July 1995]

1. In its support for international efforts to prevent the spread of weapons of mass destruction and other types of weapons, and with a view to protecting the State interests of Ukraine in its external economic activities and the strengthening of international peace and security, the Government of Ukraine attaches particular importance to questions concerning the creation of a system of export control.

2. The system of export control was instituted in Ukraine in such a way as to provide machinery for applying the requisite control procedures, namely:

- The granting of a special authorization for the export (import) of weapons, military and special technology and also raw or other materials, equipment and services which could be used for the production of weapons of mass destruction;

- The requirement that the importer must provide guarantees relating to goods subject to export control concerning their end-use;

- The provision of appropriate assurances by the suppliers of goods subject to export control that they will not be used for producing any types of weapons;

- The maintenance of control on the use of imported goods subject to export control and, where necessary, the conduct of inspections at the point where these goods are to be used;

- The imposition of vigorous sanctions against violators of the export-control regime.

3. In order to carry out these procedures, the Government of Ukraine has instituted the following measures.

4. In 1992 a governmental technical expert commission was set up and entrusted with the task of establishing and developing a system of export control in our State.

5. In March 1993, that commission was transformed into the Governmental Commission on Export Control. During its existence it has elaborated a number

of regulatory instruments governing control of the export from Ukraine of weapons, military and special technology and also raw and other materials, equipment and services which could be used for the production of weapons of mass destruction and other types of weapons.

6. The Commission has prepared lists of goods which may be exported only upon receipt of a special licence; it has also formulated instructions for drawing up an authorization for the export of weapons, military and special technology, spare parts, special materials and military equipment, and a provision on procedures for authorizing their production.

7. In September 1993, with a view to improving the system of export control, a Technical Expert Committee was set up within the Ministerial Cabinet of Ukraine.

8. This Committee is responsible for drafting measures to protect the State interests of Ukraine in the export (import) of goods subject to export control, and also for their implementation.

9. The Committee functions as a working group in the preparation of materials on issues falling within the competence of the Governmental Commission on Export Control. The Ukrainian Criminal Code provides for criminal liability for violation of the system established for the export from Ukraine of raw and other materials, equipment and technology that could be used for the production of missiles or nuclear, chemical and other types of weapons, military and special technology, or the provision of services in this sphere.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

[Original: English]

[9 June 1995]

The Permanent Representative wishes to inform the Secretary-General that the relevant information on national controls on arms transfers were provided to the Secretary-General under cover of the Permanent Representative's note No. 277 of 27 July 1992 in reply to paragraph 5 of resolution 47/52 L entitled "Transparency in armaments".

Notes

1/ See Official Records of the General Assembly, Fiftieth Session, Supplement No. 42 (A/50/42).